

**DEPARTMENT OF STATE REVENUE****LETTER OF FINDINGS NUMBER: 94-0807  
CONTROLLED SUBSTANCE EXCISE TAX  
For Tax Period of August 2, 1994**

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**ISSUES****I. Controlled Substance Excise Tax – Liability.**

**Authority:** IC § 6-7-3-5; IC § 6-8.1-5-1; Bryant v. Indiana Department of State Revenue, 660 N.E.2d 290 (Ind.1995); Hayse v. Indiana Department of State Revenue, 660 N.E.2d 325 (Ind. 1995); Baily v. Indiana Department of State Revenue, 660 N.E.2d 322 (Ind.1995); Clifft v. Indiana Department of State Revenue, 660 N.E.2d 310 (Ind. 1995); Hall v. Indiana Department of State Revenue, 660 N.E.2d 319 (Ind.1995).

The taxpayer protests assessment of controlled substance excise tax.

**STATEMENT OF FACTS**

Indianapolis Police Officers arrested the taxpayer on September 23<sup>rd</sup>, 1992 for possession and dealing of marijuana. The police entered taxpayer's residence under the authority of a search warrant and discovered a quantity of suspected marijuana that was later tested and weighted and was in fact marijuana weighing 4629.9 grams. The Department issued a jeopardy assessment against the taxpayer on October 8<sup>th</sup>, 1992. Taxpayer timely filed protest to the tax assessment.

28-940807.LOF  
Page 2

### **DISCUSSION**

IC § 6-7-3-5 states that the manufacture, possession or delivery of marijuana is taxable. There was no controlled substances excise tax (“CSET”) paid on taxpayer’s marijuana, so the Department assessed the tax against him and demanded payment. Indiana law specifically provides at IC § 6-8.1-5-1, notice of a proposed assessment is *prima facie* evidence that the Department’s claim for the unpaid tax is valid. The taxpayer timely protested the tax assessment and now bears the burden of proving the proposed assessment is wrong. In support of the protest, the taxpayer states he was unaware of the above referenced statutory provisions establishing this tax and then cites various state and federal constitutional issues.

The maxim that ignorance of the law is not an excuse for failure to comply is well established in Indiana and Federal law.

The Indiana Supreme Court has already addressed the constitutionality of the CSET and has found it sound as discussed in Bryant v. Indiana Department of State Revenue, 660 N.E.2d 290 (Ind.1995); Hayse v. Indiana Department of State Revenue, 660 N.E.2d 325 (Ind. 1995); Baily v. Indiana Department of State Revenue, 660 N.E.2d 322 (Ind.1995); Cliff v. Indiana Department of State Revenue, 660 N.E.2d 310 (Ind. 1995); Hall v. Indiana Department of State Revenue, 660 N.E.2d 319 (Ind.1995). Therefore rather than reanalyze this issue, the Department relies on the findings of the Indiana Supreme Court.

The taxpayer fails the burden of showing the CSET assessments are wrong by a preponderance of evidence.

### **FINDINGS**

Taxpayer’s protest is denied.